

REMARKS

Examiner Fenn Mathew is thanked for the thorough Office Action.

ELECTION/RESTRICTIONS

Applicant acknowledges the restriction requirement made final in the OA dated 4/09/2003.

In the Claims

The claims are amended as shown above. No new matter is added.

Parent claim 1 is amended as shown. For support see fig 2f. See spec. p. 14 , L 16 to 23.

For support for all claim amendments see at least figures 2E and 2f and See Specification p. 14 , L 16 to 23. Note that the claims may read on other embodiments as disclosed in the specification and figs.

Claims 3, 7 , 8, 11, 11. 14, 15, 18, 19, 21, 24, and 26 are canceled.

New claims 64 to 73 are added. For support see figure 2F. See spec. p. 14 , L 16 to 23. See appendix, sheet C, which shows a labeled fig 2F with the terms used in new parent claim 64. See appendix, sheet D, which shows a labeled fig 2F with the terms used in new parent claim 68. See appendix, sheet E, which shows a labeled fig 2F with the terms used in new parent claim 71. Also for claims 67, 70, and 73, see figure 7C (the area near the handle). No new matter is added.

In The Appendix

The figures in the appendix are used to clarify the terminology used in applicants new claims. No new matter is added. Sheets A to G are for informational purposed only.

Please see Sheet A for a marked up copy of applicant's figure 2F in the appendix.

Please see Sheet B for a marked up copy of Cotita's figure 1 in the appendix.

See appendix, sheet C, which shows a labeled fig 2F with the terms used in new parent claim 64.

See appendix, sheet D, which shows a labeled fig 2F with the terms used in new parent claim 68.

See appendix, sheet E, which shows a labeled fig 2F with the terms used in new parent claim 71.

See appendix, Sheet F, which shows a labeled figure A (shows embodiment shown in figure 2F) with terms used in new parent claim 64.

There figures are referred to in the arguments below.

REJECTIONS OF CLAIMS – 35 U.S.C. § 102

Rejection of claims 1-3, 5, 13, 15, and 23 under 35 U.S.C. § 102(b) as being anticipated by Wilson '057

The rejection of claims 1-3,5, 13, 15, and 23 under 35 U.S.C. § 102(b) as being anticipated by Wilson '057 is acknowledged. Reconsideration and withdrawal of the rejection is respectfully requested in view of the amendments.

Amended claim 1 states:

1. (CURRENTLY AMENDED) An exercising device ~~that is held and rotated in use~~ comprised of a ~~two units~~ unit; ~~each said unit to be held in a hand of a user;~~
said ~~units~~ each unit comprised of: a handle, an elongated first element attached to said handle, and said elongated first element has at least a first loop; said first loop entirely outside of said handle;
a elongated second element attached to said first loop;
a first segment of said elongated first element that is not part of said first loop, is between said handle and said first loop .

Amended claim 1 is not anticipated and is non-obvious over Wilson. Wilson does not show or suggest claim 1's "second elongated element".

Furthermore, Wilson does not show or suggest claim 1's limitation of: "a first segment of said elongated first element that is not part of said first loop, is between said handle and said first loop . "

Claim 3 is canceled.

Claim 13 is non-obvious

With respect to the Office Action paragraph 7, claim 13 states:

13. (ORIGINAL) The exercise device of claim 1 wherein said handle is a portion of said elongated first element.

Claim 13 claims that the handle is the a portion of the cord. For example, the handle 16 is not a separate piece of wood or plastic, but is an end section of the cord 12.

Claim 15 is canceled

For these reasons Claim 1 and all claims that dependent on claim 1 (i.e., claims 5, 13, and 23) are non-obvious over Wilson. Claims 5, 13, and 23 add further non-anticipated and non-obvious limitations.

Rejection of claims 1-2, 4, 7-10, 20-22, 24-26, 49-50 53, and 59-60 under 102(b) as being anticipated by Cotita

The rejection of claims 1-2, 4, 7-10, 20-22, 24-26, 49-50 53, and 59-60 under 102(b) as being anticipated by Cotita is acknowledged. Reconsideration and withdrawal of the rejection is respectfully requested in view of the amendments.

Amended claim 1 states:

1. (CURRENTLY AMENDED) An exercising device ~~that is held and rotated in use~~ comprised of a ~~two units~~ unit; ~~each said unit to be held in a hand of a user;~~
said ~~units each~~ unit comprised of: a handle, an elongated first element attached to said handle, and said elongated first element has at least a first loop; said first loop entirely outside of said handle;
a elongated second element attached to said first loop;
a first segment of said elongated first element that is not part of said first loop, is between said handle and said first loop.

Claim 1 is not anticipated by and is non-obvious over Cotita. Cotita does not suggest claim 1's limitation. Please see Sheet A for a marked up copy of application's fig 2f in the appendix.

“said first loop (106) entirely outside of said handle (16) ;” (See e.g., Fig 2F)
. (Element numbers add for example as shown in fig 2f – The element number do not limit the claims.).

In contrast, Cotita’s loop (A) (See Sheet B for a marked up copy of Cotita figure 1 in appendix) is in the handle 12. Cotita’s loop passes thru the handle.

Second, Cotita does not suggest claim 1’s limitation of:

a first segment (502) of said elongated first element that is not part of said first loop, is between said handle and said first loop. (See appendix (marked up fig 2F)

In contrast, Cotita’s loop A is directed attached to the handle 12.

For these reasons, claim 1 and all claim 1’s dependent claims are not anticipated and are non-obvious over Cotita.

Claims 2 and 4

Referring to the Office Action paragraph 11, claims 2 and 4 are non-obvious because they depend from non-obvious claim 1.

Claim 7

Referring to the Office Action paragraph 12, claim 7 is canceled.

Claim 8

Referring to the Office Action paragraph 13, claim 8 is canceled.

Claim 9

Referring to the Office Action paragraph 14, claim 9 is non-obvious because it depends from non-obvious claim 1.

Claim 10

Referring to the Office Action paragraph 15, claim 10 is non-obvious because it depends from non-obvious claim 1.

Claim 20

Referring to the Office Action paragraph 16, claim 10 is non-obvious because it depends from non-obvious claim 1.

Claim 21

Referring to the Office Action paragraph 17, claim 21 is canceled.

Claim 22

Referring to the Office Action paragraph 18, claim 22 is non-obvious because it depends from non-obvious claim 1.

Claim 24

Referring to the Office Action paragraph 19, claim 24 is non-obvious because it depends from non-obvious claim 1.

Claim 25

Referring to the Office Action paragraph 20, claim 25 is non-obvious because it depends from non-obvious claim 1.

Claim 26

Referring to the Office Action paragraph 21, claim 26 is canceled.

Claim 49

Referring to the Office Action paragraph 22, claim 49 is non-obvious because it depends from non-obvious claim 1.

Claim 50

Referring to the Office Action paragraph 23, claim 50 is non-obvious because it depends from non-obvious claim 1 and contains non-obvious limitations.

Claim 50 states:

50. (currently amended) The exercising device of claim 1 wherein said first loop is formed by a first knot;

an said elongated second element has a first end and a second end; said first end of said elongated second element attached to said first loop by said first knot; and said second end of said elongated second element attached to said first loop by a second knot.

Cotita does not meet or suggest the limitations of amended claim 50, especially the newly added limitations.

Parent claim 53

Referring to the Office Action paragraph 24, claim 53 is non-obvious.

Claim 53 states:

53. (CURRENTLY AMENDED - PREVIOUSLY ADDED IN RESPONSE TO OFFICE ACTION DATED 12/13/2002) An exercising device ~~that is held and rotated in use~~ comprised of ~~two units; each unit to be held in a hand of a user;~~

~~said units~~ a unit ~~each~~ comprised of: a handle, an elongated first element attached to said handle, and said elongated first element has at least a first loop; said first loop formed by a first loop forming device; said first loop is entirely outside of said handle;

a first segment of said elongated first element that is not part of said first loop, is between said handle and said first loop;

~~an elongated second element attached directly or indirectly to: (i) said handle, (ii) said first loop, (iii) to said first loop forming device, or (iv) said elongated first element.~~

because it depends from non-obvious claim 1 and contains non-obvious limitations. .

Claim 59

Referring to the Office Action paragraph 25, claim 59 is non-obvious because it depends from non-obvious claim 53 and contains non-obvious limitations.

Claim 60

Referring to the Office Action paragraph 26, claim 60 is non-obvious because it depends from non-obvious claim 53 and contains non-obvious limitations.

60. (CURRENTLY AMENDED) An exercising device that is held and rotated in use comprised of ~~two units~~ a unit; ~~each unit to be held in a hand of a user~~;
said ~~units~~ each unit comprised of: a handle, a first chord attached to said handle, said first chord has a first end and a second end; only said first end of said first chord is attached to said handle; a first loop formed by attaching a first section of said first chord to a second section of said first chord using a first loop forming device; said first loop forming device is a first knot; said first loop entirely outside of said handle;
a ~~second~~ second elongated second element attached to said first loop by said first knot and a second knot; ~~said second elongated element is comprised of said first chord~~.

Amended claim 60 is non-obvious over Cotita. See analogous arguments for claim 1. For example, the following limitation is non-obvious:

a ~~second~~ elongated second element(108) attached to said first ~~said second elongated element is comprised of said first chord~~. (element numbers added but not limiting)
Cotita does not attach the second element 14 to the first loop A by two knots

(40 and ?) .

CLAIM REJECTIONS - 35 U.S.C. § 103

Rejection of claims 6, 11-12, 14, 16-19, 51-52, 54-58 and 61-63 under 35 U.S.C. § 103(a) as being unpatentable over Cotita '220.

The rejection of claims 6, 11-12, 14, 16-19, 51-52, 54-58 and 61-63 under 35 U.S.C. § 103(a) as being unpatentable over Cotita '220 is acknowledged.

Claims 6, 12, 16, 17, 51, 52 depend from non-obvious claim 1 and are therefore non-obvious.

Claim 11, 14, 18, and 19 are canceled.

Claims 54-58 are non obvious because they depend from non-obvious parent claim 53 and contain further non-obvious limitations.

Claim 54 contains length limits that allow the applicant's exercise device to function as a simulated jump rope and to reduce injuries. In contrast, there is no motivation to modify the cited references to meet the claims because the cited reference do not teach using their devices as applicant's simulated jump rope.

If Cotita were modified to meet claim 54, Cotitia's invention would not function. MPEP 2143.1 states:

THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART
UNSATISFACTORY FOR ITS INTENDED PURPOSE

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

Cotita's defense device would not function properly if it was shortened. See Cotita fig 4.

Reference Teaches Away

The references teach away from the claimed limitations by teaching different functions. For example, Cotita teaches using the device for defense. (See Cotita fig 4). The device is significantly longer than application in order to function as a defense device and strike other objects (e.g., dog). In contrast, the applicant device is designed not to strike other objects and for safety.

Claim 55 is not suggested by any reference. See fig 2F.

Claim 58 is not suggested by any reference See e.g., fig 2F.

CLAIMS 60 , 61, 62 AND 63 ARE NON-OBVIOUS

Claim 60 states :

60. (CURRENTLY AMENDED) An exercising device that is held and rotated in use comprised of ~~two units~~ a unit; ~~each unit to be held in a hand of a user~~;

~~said units~~ each unit comprised of: a handle, a first chord attached to said handle, said first chord has a first end and a second end; only said first end of said first chord is attached to said handle; a first loop formed by attaching a first section of said first chord to a second section of said first chord using a first loop forming device; said first loop forming device is a first knot; said first loop entirely outside of said handle;

~~a second elongated second element attached to said first loop by said first knot and a second knot; said second elongated element is comprised of said first chord.~~

The newly added limitation in Claim 60 are not shown nor suggested by the references.

Claim 62 depends from non-obvious parent claim 60.

Claim 63 adds non-obvious limitations. see arguments above with respect to claim 54.

Claim 14

Referring to the Office Action paragraph 29, claim 14 is canceled.

NEW CLAIMS 64 TO 73 ARE NON-OBVIOUS

New claims 64 to 73 are added. For support see figure 2F. See spec. p. 14 , L
16 to 23. No new matter is added.

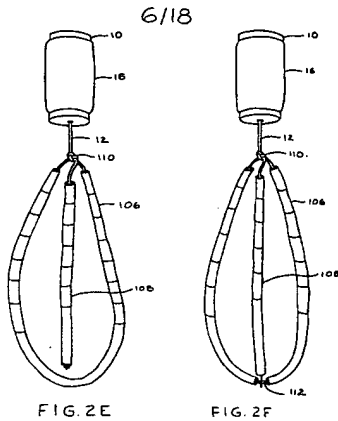
New claims 64 to 73 are added. New claims 64 to 73 are non-obvious over the
cited references.

New Claim 64 states:

64. (NEWLY ADDED) An exercising device comprised of a unit; said unit comprised of:
a handle and an elongated element attached to said handle;
said elongated element comprised sequentially of a first end, a first segment, a first attachment point, a second segment, a second attachment point, a third segment, and a second end;
a first attachment device attaching said first attachment point and said second attachment point to form a loop comprised of said second segment;
a second attachment device attaching (a) an end point on said third segment proximate said second end and (b) a point on said second segment.

In the appendix, Sheet F, Figure A shows some of the terminology in claim
64. Figure A shows corresponding parts of Applicants figure 2F.

Also see in the appendix Sheet C – a marked up copy of applicant's figure 2F which also corresponds to figure A in Sheet G.



New claims 65 and 66 state:

65. (NEWLY ADDED) The exercising device of claim 64 wherein said handle is attached to said elongated element proximate said first end.
66. (NEWLY ADDED) The exercising device of claim 64 wherein said handle is attached to said elongated element by a third attachment device.
67. (NEWLY ADDED) The exercising device of claim 64 wherein said first attachment device further attaches said elongated element to said handle.

Claim 67 refers to the an embodiment shown in figures 7C and 7D where the first attachment device attaches the chord to the handle.

New claims 65 to 67 are non-obvious over the prior art.

New parent claim 68

New parent claims 68 states:

68. (NEWLY ADDED) An exercising device that is held and rotated in use comprised of a unit;

said unit comprised of: a handle and an elongated first element, said elongated first element has a first end and a second end;

said handle attached to said elongated first element proximate said first end; a first loop formed by attaching a first section of said elongated first element to a second section of said elongated first element using a first attachment device;

a segment of said elongated first element with a first segment-end attached to said first loop by said first attachment device; and

a second segment-end equal to said second end that is attached proximate said segment second-end to said first loop by a second attachment device.

In the appendix, Sheet D shows a labeled copy of figure 2f using the terminology in claim 68. Note that claim 68 is not limited to the embodiment shown in figure 2F, but is an example.
Dependent claims 69 and 70

New Dependent claims 69, 70 and 71 are shown below:

69. (NEWLY ADDED) The exercising device of claim 68 wherein said segment is a elongated second element.

70. (NEWLY ADDED) The exercising device of claim 68 wherein said first attachment device further attaches said elongated first element to said handle.

Claims 69 and 70 state non-obvious limitations.

New parent claim 71

New parent claims 71 states:

71. (NEWLY ADDED) An exercising device that is held and rotated in use comprised of a unit;

said unit comprised of: a handle and an elongated first element,
said elongated first element comprised sequentially of a first end, a first section, a second section and a second end;

said handle attached to said elongated first element proximate said first end; a first loop formed by attaching said first section of said elongated first element to said second section of said elongated first element using a first attachment device;

a segment of said elongated first element with a first segment-end at said second section and a second segment-end at said second end; said segment attached proximate said second segment-end to said loop by a second attachment device.

In the appendix, Sheet E shows a labeled copy of figure 2f using the terminology in claim 71. Note that claim 71 is not limited to the embodiment shown in figure 2F, but is an example.

Dependent claims 72 and 73

New Dependent claims 72 and 73 are shown below:

72. (NEWLY ADDED) The exercising device of claim 71 wherein said segment is an elongated second element.

73. (NEWLY ADDED): The exercising device of claim 71 wherein said first attachment device further attaches said elongated first element to said handle.

Claims 72 and 73 state non-obvious limitations.

CONCLUSION

In conclusion, withdrawal of the restriction requirement is respectfully requested. Allowance of all claims is requested. Issuance of the application is requested. It is requested that the Examiner telephone the undersigned attorney at (215) 670-2455 should there be anyway that we could help to place this application in condition for allowance.

Respectfully submitted,

William J. Stoffel 7/5/03

William J. Stoffel Reg. No. 39,390

William J. Stoffel
Reg no. 39,390
Customer no. 30,402
1735 Market St - Ste A
PMB 455
Philadelphia, PA 19103
215-670-2455